

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

THE PLAZA AT 835 WEST	:	CIVIL ACTION
HAMILTON STREET LP	:	
	:	
vs.	:	NO. 15-6616
	:	
ALLENTOWN NEIGHBORHOOD	:	
IMPROVEMENT ZONE	:	
DEVELOPMENT AUTHORITY, et al.	:	

ORDER

AND NOW this 12th day of September, 2017, upon consideration of the motions to dismiss filed by Defendants City of Allentown, Ed Pawlowski in his official capacity as Mayor of the City of Allentown (Documents #38 and 39), and Secretary Eileen McNulty (Document # 44.),¹ and the motion for judgment on the pleadings by defendant Allentown Neighborhood Improvement Zone Development Authority (“ANIZDA”) (Document #36), the plaintiff’s response in opposition to the defendants’ motions (Document #50), the defendants’ replies (Documents #55 (ANIZDA), 59 (McNulty), 63 (the City and Pawloski)), and the plaintiff’s sur-reply in opposition to ANIZDA’s reply (Document #61) and supplemental memorandum (Document #64), and consistent with the accompanying memorandum, **IT IS HEREBY ORDERED** that the defendants’ motions are **GRANTED** as follows:

- 1) The plaintiff’s claims under the Pennsylvania Constitution (Counts III, VI, and VIII) are **DISMISSED** with prejudice.

¹ Secretary McNulty filed this motion with then-defendant Governor Wolf, who was subsequently dismissed from the case by stipulation. (Doc. No. 47).

2) The plaintiff's claims under the Equal Protection Clause, U.S. Cons. Am. XIV (Count II), the Takings Clause, U.S. Const. Am. V (Count V), and the Contract Clause, U.S. Const. Art. 1 § 10 (Count VII), pursuant to 28 U.S.C. § 1983 (Count IV) and the Declaratory Judgment Act, 28 U.S.C. §§ 2201–2202 (Count I), are **DISMISSED** without prejudice. The plaintiff has fourteen days within which to amend to the extent it can state any claim consistent with this memorandum.

BY THE COURT:

/s/ Lawrence F. Stengel
LAWRENCE F. STENGEL, C. J.